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December 12, 2024

VIA ECF

Honorable Denise L. Cote
United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: *Ubiera v. City of New York, et al.*, 24-cv-8685 (DLC)(SDA)

Dear Judge Cote:

I am an Assistant Corporation Counsel in the Office of the Corporation Counsel, attorney for the City of New York in the above-referenced action. The City writes to respectfully request a 60-day extension of time, from December 12, 2024, until February 10, 2025, for the City to respond to Plaintiff's Complaint, and for the January 24, 2025 initial conference to be adjourned to a date convenient to the Court after February 10, 2025.¹ This is the first request for an extension of this deadline and for an adjournment of the initial conference. Counsel for Plaintiff consents to the extension of time for the City to respond to the Complaint, but does not consent to an adjournment of the initial conference.

Upon information and belief, the individuals identified in the caption as Correction Officer Sincere Crowell and Captain Angelo Erland Lessey were served with process on November 19, 2024; affirmations of service were filed by counsel for Plaintiff on December 12, 2024 (ECF Nos. 10 & 11). As an initial matter, decisions concerning this Office's representation of Correction Officer Sincere Crowell and Captain Angelo Erland Lessey have not yet been made, and this request for an extension of time is not made on their behalf. However, given the time involved in determining representation, and in the interest of judicial economy, we hope that the Court may, *sua sponte*, extend the time to answer on behalf of all defendants until February

¹ Per Your Honor's Notice of Initial Pretrial Conference (ECF No. 7), the undersigned states that counsel for the City is available on any succeeding Friday for an initial conference. Further, pursuant to this Notice (ECF No. 7), Plaintiff and the City have waived service of the Notice of Initial Pretrial Conference and the Court's Individual Practices.

10, 2025. Such an enlargement will allow us to resolve any representational issues pursuant to Section 50-k of the New York General Municipal Law.

In the Complaint, Plaintiff alleges a violation of Plaintiff-decedent's Constitutional rights on or about August 21, 2023 and August 22, 2023 while in the custody of the New York City Department of Correction ("DOC"). Specifically, Plaintiff alleges that DOC failed to provide Plaintiff-decedent, whom Plaintiff claims had a long history of mental health issues and substance abuse, with mental health services, care, and supervision. Plaintiff further alleges that Plaintiff-decedent overdosed after DOC allegedly failed to intervene, and subsequently died. Plaintiff also appears to allege *Monell* liability against the City of New York.

The reason for the requested extension and adjournment is that this Office needs time to investigate the allegations set forth in the Complaint, pursuant to Rule 11 of the Federal Rules of Civil Procedure. Additional time will also provide this Office an opportunity to obtain and review documents from the investigations into the alleged incident, and to obtain medical and psychiatric records for Plaintiff-decedent once provided with HIPAA releases by counsel for Plaintiff. Furthermore, this Office needs sufficient time to conduct representation interviews of the individual defendants once they have requested legal representation from this Office, and make representation decisions with respect to these individuals.

Accordingly, it is respectfully requested that the City's time to respond to Plaintiff's Complaint be extended to February 10, 2025, and that the individual defendants also be granted a corresponding extension in the interest of judicial economy. It is also respectfully requested that the initial conference be adjourned to a date convenient to the Court after February 10, 2025.

I thank the Court for its consideration.

Respectfully submitted,

s/ Jacquelyn Dainow

Jacquelyn Dainow

Assistant Corporation Counsel

cc: All counsel of record (via ECF)

The plaintiff shall promptly serve
HIPAA - complaint releases
on the defendants. The
time to respond to the
complaint is extended
to 2/10/25. The conference
is adjourned to 2/14/25
at 10:30 am. *M. M. C.*
12/13/24